

LAW LIBRARY OF CONGRESS
RIGHTS OF PERSONS WITH DISABILITIES
UNITED KINGDOM

SUMMARY

In the United Kingdom, the rights of persons with disabilities are governed by the **Disability Discrimination Act 1995** and its companion act on enforcement, the **Disability Rights Commission Act**. In September 2002, the newly enacted **Special Educational Needs and Disability Act 2002** took effect. The laws offer comprehensive protection. Disability is broadly defined as a “physical or mental impairment which has a substantial and long-term effect on the [disabled’s] ability to carry out normal day-to-day activities.” This definition echoes the ADA’s in its emphasis on a person’s ability to function in everyday life situations. The referenced laws apply to all service providers and employers with more than 15 employees. Exempt are employers with less than 15 employees, charities, the Armed Forces, police officers and prison guards, and acts relating to national security.

Scope of Coverage.

The DDA entails administrative, operational, and enforcement provisions. This comprehensive legislation covers a wide range of issues, such as:

- Definition of disability;
- Education
 - integration into mainstream
 - choice of institution
- Employment
 - recruitment
 - working hours
 - promotions
 - reduction-in-force
 - reasonable adjustments (accommodations)
- Access to
 - public accommodations
 - goods and services
 - transportation, especially public service vehicles
- Telecommunications
 - requirements to accommodate are part of licence
 - free directory service
 - special tariffs and payment plans
 - priority maintenance service
- Housing
- Enforcement of compliance

Legislative Objective.

The statutory scheme is in the nature of **civil rights legislation**. It recognizes disabled persons as equal members of society, entitled to be fully integrated in societal life. Taken together, the acts offer comprehensive protection of their rights. The enforcement mechanism is designed to ensure equal opportunities, based on a **cost-benefit** approach.

Public Policy Implementation.

The Secretary of State has final authority over policy on and enforcement of the statutory rights of persons with disabilities. His office is tasked to issue guidelines on compliance with the provisions of the acts and on disability determination. Two statutory bodies were successively created to assist the Secretary of State:

- The National Disability Council advised on policy, and, in 1999 was replaced by the
- The Disability Rights Commission monitors and enforces compliance
 - advises employers and disabled employees,
 - investigated complaints,
 - attempts settlement,
 - refers to outside conciliation,
 - conducts in-house mediation,
 - files in court.

Enforcement and Remedies.

The laws prohibit any disparate treatment based solely on disability. Employment contracts are rendered void to the extent that their terms violate provisions of the DDA. The disabled person may file a complaint with the Disability Rights Commission which may file *sua sponte* against the alleged discriminating employer. contrary to the ADA, the employer has the burden of proof. Service contracts conflicting with provisions of the DDA are void. The disabled person may sue the violating provider in court.

The following remedies are available under the statutes:

- Declaratory judgement,
- Compensatory damages,
- Punitive increase of compensatory damages for continued discrimination,
- Order to accommodate.

Affirmative Defenses.

Alleged disparate treatment may be defended on the basis that

- the desired action constitutes an undue burden for the employer because
 - the employer action was reasonably suited to prevent discrimination;
 - the desired action is impracticable and would create financial restraint.